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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Janssen, et al.

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Application No.: 10/040,149

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: Examiner: Scuderi, Philip S.

For: SERVER-BASED COMPUTING ENVIRONMENT : Atty Docket No. DVME-1018US

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REPLY BRIEF

This is a Reply Brief in an appeal from the rejection set forth in the Final Rejection dated July 3, 2007, (hereinafter “the Final Rejection”) in the above-identified application. Appellant respectfully submits that the rejections in the Final Rejection which were not withdrawn in the Examiner’s Answer dated February 21, 2008, were made in error, and that the rejections should be reversed for the reasons set forth in the Appeal Brief filed on January 2, 2008, as supplemented by the reasons set forth herein in response to new issues raised by the Examiner.

1. The Rejection of Claims 1-10 Under 35 U.S.C. §102(b) as Anticipated by U.S. Patent no. 5,909,545 (Frese)

A. Claim 1

On pages 14-15 of the Examiner’s Answer, the Examiner argues for the first time that, “...the system [not the server] is required to be intentionally and specifically made to enable the server to control the client’s display.” (emphasis original) See page 14, last line to page 15, first line, of the Examiner’s Answer. The Examiner continually places emphasis on the fact that the claims require that the “system” be configured to enable the server to control the display of the client computer, but still fails to show that Frese meets this claim limitation.

The Examiner then paraphrases the requirements of claim 1 stating that, “... (1) the server and the client need to be connected via some network and (2) the server needs to be capable of

being provided with means for controlling the display of the client, as described in the Final Rejection.” (emphasis added) See page 15, lines 2-4 of the Examiner’s Answer. However, this paraphrase of the claim language is incorrect since it uses the terminology “capable of being provided with.” In actuality, the claim requires that the system is “configured to enable the server to control the client’s display.” Also, the Examiner does not explain how a server that is capable of being provided with a means for controlling the display, but has not yet been provided with such a means (e.g. as in Frese), would be intentionally and specifically made to act to control the display of the local client computer. In fact, until the actual means was provided, the server would not be configured to control the display on a client computer. This demonstrates the error in the Examiner’s paraphrase of the current claim language.

On page 15, in Section A.1.b of the Examiner’s Answer, the Examiner correctly identifies a typographical error in the Appeal Brief for this application. The Appeal Brief at page 10, lines 1-2 incorrectly stated that “the client computer” must be configured to enable the server to control the display on the client computer, when, in fact, the Appeal Brief should have stated that the “system” must be configured to enable the server to control the display on the client computer. However, this typographical error does not alter the fact that the Examiner has not identified any structure, means, hardware or software in Frese that meets this limitation of claim 1.

The Examiner has conceded that the language, “configured to enable” requires that the system be intentionally and specifically made to act in a certain way. It follows from this that claim 1 clearly requires that for the server to be configured to enable control of the display on the client computer, the system must include some hardware or software for intentionally and specifically making the server control the display of the local client computer. (See page 11, lines 3-6 of the specification). The Examiner again makes a conclusory statement that Frese clearly discloses this feature of claim 1, but fails to identify the specific hardware or software disclosed in Frese which meets this claim limitation, instead relying for this purpose on an applet tag contained in an HTML document that is transmitted from the internet to the client computer via the server. The Examiner has also not met his burden of proving that the system of Frese includes

some means for enabling the server of Frese to control the display on the screen of a client computer. In fact, Frese does not disclose this feature of claim 1 and thus claim 1 is novel over Frese for at least this reason.

In Section A.1.c on page 16 of the Examiner's Answer, the Examiner argues that RDM 18 of Frese is "means for locally running at least one further application (18), wherein the system comprises means for controlling the locally run applications (18)." (emphasis original). However, this argument ignores the remainder of the claim language that is part of this claim limitation requiring, "means for controlling the locally run applications through the user interface provided by the server." RDM 18 of Frese is not a means for controlling the locally run applications through a user interface provided by the server since RDM 18 itself provides the user interface of Frese when it is run on the client computer. Thus, Frese does the opposite of what is claimed in the present claim 1, namely, controls the display of the local client computer using the RDM 18 executed on the client computer rather than controlling the display of the local client computer through a user interface provided by the server. See col. 9, line 63 to col. 10, line 4 of Frese. Therefore, the client computer of Frese is not configured to enable the server to control the display as required by claim 1 but rather, the opposite is true, the client computer of Frese is configured to enable the client computer to control the display of Frese.

In Section A.1.d of the Examiner's Answer, the Examiner concludes that, "Because the server provides the applet tags and their parameters that the client is able to select, the server ultimately controls the look and feel of the applet that is run by the client." See page 17, last sentence of Section A.1.d of the Examiner's Answer. The Examiner admits that the RDM 18 is executed on the local (client) computer and thus it is the client computer that controls the display since it is the client computer that executes the RDM 18 that controls the display. The device that provides the applet to the client computer, however, does not control anything. In this instance, the server merely transmits the executable RDM 18 to the client computer, but does not control the display of the client computer. Transmitting an executable program for providing the user interface is not control of the user interface as required by claim 1 of the present application.

In Section A.1.e of the Examiner's Answer, the Examiner concedes that the server does not store the HTML documents but now argues that, "... the server does not actually need to store the HTML documents in order to meet the claim. Frese's server clearly provides the HTML documents to the client and therefore "controls" the display as described above." The applet tag of the HTML document is used to select which RDM 18 is to be transmitted to the local computer for execution on the local computer. Thus, the Examiner admits that the selection of which RDM 18 is to be transmitted to the local computer is based on an HTML document that is not stored on the server of Frese. Thus, the server of Frese does not even store the information used to select which RDM 18 is to be transmitted. All the server of Frese does is transmit an executable RDM 18 selected by the client computer based on the information contained in the HTML document about the properties of the client computer. This is not the same as "controlling" the display of the client computer through a user interface provided by the server, as required by the claims.

In Section A.1.f of the Examiner's Answer, the Examiner incorrectly characterizes the broadest reasonable interpretation of the term, "content" to mean, "... any information such as text, data, or graphics displayed by the RDM applet 18. The RDM applet's application window itself can arguably be considered graphics." See page 18, Section A.1.f of the Examiner's Answer. This interpretation of the term, "content" is clearly incorrect since claim 1 of the present application requires the presence of both a user interface and contents generated locally on the client computer. The Examiner's interpretation of "content" clearly includes aspects of the user interface and thus is not a reasonable interpretation of the term, "content" in the context of claim 1 of the present application. This is because claim 1 already specifies a user interface and thus "content" as claimed in claim 1 must be something different than the user interface.

The Examiner has already admitted that the user interface of Frese is generated by the RDM 18 at page 3, lines 20-21 of the Final Rejection. Thus it is improper to rely on the RDM's application window as being content when, in fact, the RDM's application window is the user interface of Frese. The interrogation interface provided by RDM 18 of Frese relied on by the Examiner is also part of the user interface of Frese and the Examiner has not shown that the

interrogation interface displays any content generated on the local client computer. Rather, the interrogation interface of Frese appears to be just a user interface without locally generated content. Thus, Frese does not teach that the server is enabled to control the display on a client computer of a screen area having contents generated locally on the client computer, as required by claim 1.

In Section A.1.g of the Examiner's Answer, the Examiner admits that Ambler does not show a web page that controls applications. See page 19 of the Examiner's Answer. Thus, the user interface of Ambler is a completely different type of user interface than those referred to in claim 1 of the present application since claim 1 requires that the user interface can be used to control applications. Thus, even if the web page of Frese were a user interface as the Examiner suggests, Frese does not disclose that such web pages can be used to control applications on a computer. Rather, at best the web page of Frese can be used to select an application for execution by activating the applet tag field of the HTML document (web page) of Frese. See col. 7, lines 41-44 of Frese. However, once the application has been selected, RDM 18 is transmitted to the local client computer and executed to provide the user interface. See col. 6, lines 61-64 of Frese. Further, contrary to the Examiner's position in the Final Rejection, Ambler does not show that the reference to a "web page" in Frese, implicitly discloses a user interface that can be used to control applications since even Ambler does not disclose such a web page as the Examiner has admitted in the Examiner's Answer.

B. Claim 4

With respect to claim 4, the Examiner argues in Section A.2.a of the Examiner's Answer that because the HTML documents of Frese describe the application programs available for demonstration (col. 7, lines 34-35 of Frese), and can be viewed on the client computer, this provides the means 13, 14, 15 for presenting an overview of available applications installed on the server 1 and on the client computer 5 through the user interface, required by claim 4. However, Frese does not appear to disclose that the application programs available for demonstration

described in the HTML documents of Frese include applications installed on the client computer. Thus, Frese still does not meet this limitation of claim 4 of the present application.

C. Claim 6

With respect to claim 6, the Examiner argues in Section A.3.a of the Examiner's Answer that browser 30 of Frese is the claimed means for generating a merged local client screen. A merged local client screen 16, as claimed in claim 6, is a client screen displayed on the client computer 5 which merges the local client screen area 9 of Figure 2A with the central application screen area 10 of Figure 2A of the present application. See page 7, lines 24-27 of the specification. The Examiner alleges that the browser 30 of Frese meets this limitation. However, Frese does not disclose a local client screen area, as claimed, since claim 1, from which claim 6 depends, requires that the local client screen area display content generated on the local computer. This feature of claim 1 is not disclosed by Frese, as discussed above, and thus Frese cannot disclose a merged local client screen since Frese is missing a component of a merged local client screen, namely the local client screen area that displays content generated on the local computer. The same arguments apply to the Examiner's comments in relation to claims 7-9 found in Sections A.4.a-A.5.a of the Examiner's Answer.

Accordingly, reversal of the rejections of claims, 4 and 6-9 for these additional reasons is requested.

2. The Rejection of Claim 18 Under 35 U.S.C. §102(b) as Anticipated by U.S. Patent no. 5,909,545 (Frese)

Claim 18 requires among other limitations, that the server control the display on a screen of the display device of a screen area having contents generated locally on the client computer. The Examiner takes the position that server 20 of Frese controls the display of a screen area having contents generated locally on the client computer as required by claim 18 by specifying the parameters of RDM 18. This is incorrect.

In Section A.6.a of the Examiner's Answer, the Examiner argues that, "Just because user system 16 controls some aspect of RDM applet 18 does not mean that server 20 does not control any aspect of RDM applet 18." The problem with the Examiner's position is that the Examiner bears the burden of proving that Frese discloses all elements of claim 18 in support of the rejection under 35 U.S.C. 102(b). The Examiner's reasoning does not prove that the server controls any aspect of RDM 18. The absence of a statement in Frese that the server 20 does not control RDM 18 does not prove that the server 20 of Frese controls RDM 18, as would be required to meet the Examiner's burden of proof in support of the rejection. The fact that Frese discloses that user system 16 executes RDM 18, clearly does not prove that the server 20 controls an aspect of RDM 18. In fact, as discussed above, RDM 18 is merely transmitted by the server to the client computer for execution in the system of Frese and the server does not control the RDM 18. Thus, the Examiner has not met his burden of proving that this limitation of claim 18 is disclosed in Frese.

In Section A.6.b of the Examiner's Answer, the Examiner takes the position that Frese clearly shows that the HTML document received from the server (col. 7, lines 46-55 of Frese) specifies RDM 18's parameters. First, the HTML document of Frese does not specify RDM 18's parameters, but rather, specifies parameters used to select RDM 18. See col. 10, lines 5-14 of Frese. In fact, Frese teaches that specific system parameters are not required in HTML document 18 since they are provided by browser 30. See col. 10, lines 11-14 of Frese.

Moreover, the fact that the server transmits an HTML document to a client computer specifying information for selecting particular RDM 18 for transmission to the client computer is not sufficient to show that the server of Frese controls the display on the client computer. Mere transmission of information used to select the RDM 18 application that runs the user interface is not "control." Further, Frese does not indicate that the HTML document is generated by the server or even that it is stored on the server. Rather, the HTML document of Frese comes from the internet, hence the reason that it is an HTML document in the first place. See col. 7, lines 28-31 of Frese. Therefore, the information contained in the HTML document used to select RDM 18

are not generated by, or stored on the server, but rather come from the internet. Thus, for this additional reason, the server clearly does not control the display on a screen of the display device of a screen area having contents generated locally on the client computer, as required by claim 18.

In Section A.6.c of the Examiner's Answer, the Examiner again incorrectly defines "content" as including aspects of the user interface. This error was addressed above in the discussion of Section A.1.f of the Examiner's Answer. Since claim 18 also specifies both a "user interface" and "contents generated locally on the client computer" the same analysis as above, applies to claim 18 and thus the Examiner's position is clearly incorrect since it is the user interface that is generated by RDM 18 and not "content."

3. *The Rejection of Claim 19 Under 35 U.S.C. §102(b) as Anticipated by U.S. Patent no. 5,909,545 (Frese)*

In Section A.7.a of the Examiner's Answer, the Examiner argues that, "Frese teaches a computer program (browser 30) that, when run on a computer (user system 16), causes the computer (user system 16) to accept a user interface (web page) provided by a server (RAS 20) for controlling the locally run applications (applets 18)," citing Frese Fig. 1 and col. 6, line 39 to col. 8, line 50. The problem with this analysis is that in the system of Frese, the web page (HTML document) does not control RDM 18 as the Examiner suggests. Rather, the applet tag of the HTML document specifies certain parameters used to select which RDM 18 will be provided to the local computer for execution on the local computer and does not control the display parameters as the Examiner suggests (see col. 10, lines 5-14 of Frese). The RDM 18 of Frese controls the display. See col. 6, lines 61-64 of Frese. Accordingly, this argument of the Examiner is incorrect for this reason.

The arguments made by the Examiner in Section A.7.b of the Examiner's Answer have been fully addressed above in the discussion of Section A.6.a of the Examiner's Answer and the same reasoning applies to claim 19 as is given above.

The arguments made by the Examiner in Section A.7.c of the Examiner's Answer have been fully addressed above in the discussion of Section A.7.a of the Examiner's Answer and the same reasoning applies to claim 19 as is given above.

In Section A.7.d of the Examiner's Answer, the Examiner argues that since the server of Frese transmits an HTML document containing an applet tag used to select RDM 18 from the internet to the client computer, the server of Frese controls the user interface of the client computer. This is clearly incorrect for the reasons discussed above in relation to Section A.7.a of the Examiner's Answer.

Accordingly, for the reasons given in the Appeal Brief and the additional reasons presented above, the Applicant maintains that the Examiner's rejection of claims 1-10 and 18-19 under 35 U.S.C. 102(b) over Frese should be reversed.

4. *The Rejection of Claims 1-10 under 35 U.S.C. 103(a) over U.S. Patent no. 5,613,090 (Willems)*

In Section B beginning on page 24 of the Examiner's Answer, the Examiner takes the position that, "Willems does not teach away from modifying prior art figure 8 to enable to window manager to (1) control a client's locally run applications and (2) run window manager 2100 and X server 102 on the same machine." See page 24, Section B, lines 11-13 of the Examiner's Answer. The Examiner admits that the prior art embodiment of Fig. 8 of Willems which forms the starting point for the Examiner's obviousness analysis lacks two elements of claim 1, namely: (1) controlling locally run applications through the user interface provided by the server (page 14 of the Final Rejection), and (2) means for locally running at least one application (page 14 of the Final Rejection). Thus, to arrive at the subject matter of claim 1 of the present application starting from Figure 8 of Willems, the skilled person would have to: (1) choose to locate window manager 100 on X server 102, and (2) provide means for locally running at least one application.

The Examiner supports his position with the new argument in Section B.1.a of the Examiner's Answer that, "...the mere fact that the motivation of reducing front-end code lead [sic – leads] Willems to disclose the invention of figure 9 does not establish that one of ordinary skill in the art would consider the invention of figure 9 to be the only way of achieving this result. It does not even establish that Willems himself did not consider locating the window manager 100 and X server 102 on the same machine. Indeed, Willems could very well have considered this modification and found it to be so obvious as to not warrant disclosure." See page 25, second paragraph of Section B.1.a of the Examiner's Answer.

The Examiner's position is pure speculation and not supported by the disclosure of Willems. The Examiner bears the burden of proof and the fact that Willems does not disclose the modification suggested by the Examiner but instead modifies the embodiment of Figure 8 to arrive at the embodiment of Figure 9, something other than the invention claimed in the present application, clearly establishes that Willems teaches away from the present invention by showing the skilled person to modify Figure 8 to arrive at Figure 9, which is not the present invention. The Examiner is trying to rely on elements that are not disclosed in Willems and speculation in support of the rejection. This is clearly improper.

The Examiner argues in Section B.1.b of the Examiner's Answer that, "... combining the remote window manager 100 and X server 102 would clearly decrease network traffic between these two components because there would no longer be a network separating these components." See the sentence bridging pages 25-26 of the Examiner's Answer. There are several problems with this allegation made by the Examiner. First, Willems does not disclose that combining X server 102 with window manager 100 would decrease network traffic and thus this conclusion is pure speculation by the Examiner. Second, Willems does not even disclose whether it is possible to combine X server 102 and window manager 100 as the Examiner suggests. This is a non-trivial exercise when one considers that the system contemplated by Willems maintains multiple simultaneous connections to multiple Windows front ends 14 each of which will have its own network connection and Windows manager 100. See col. 4, lines 22-27 and lines 45-53 of

Willems. Thus, to implement the suggestion of the Examiner, multiple Window managers 100 would have to be run on X server 102, one for each Windows front end 14. Willems does not disclose that X server 102 would be capable of running multiple Window managers 100 without taking a serious performance hit. Thus, a skilled person would have no reason to expect that this embodiment would be possible or advantageous.

Finally, and most importantly, one of the two stated goals of Willems is to reduce the front-end code required for the Windows front end 14. Willems only teaches that this goal can be accomplished by locating window manager 100 locally. Thus, the Examiner's proposed modification of Figure 8 would not reduce the front-end code since it would not locate window manager 100 locally and thus would not accomplish one of the stated goals of Willems.

The Examiner argues that Willems provides a clear motivation to combine window manager 100 and X server 102 where Willems states that, "a performance hit is taken because of additional traffic between the window manager 100 and the 'X Windows' application 18, 20 and 22 and between the window manager 200 and the X server 102." However, the Examiner again ignores the fact that Willems uses this stated motivation as a reason to implement the embodiment of Figure 9 and not the configuration proposed by the Examiner, thereby teaching away from the present invention.

The Examiner argues in Section B.1.c of the Examiner's Answer that, "In order to 'provide express motivation not to make the Examiner's proposed change' Willems would need to actually mention the Examiner's proposed change. See second paragraph of Section B.1.c of the Examiner's Answer. The applicant disagrees. Rather, Willems teaches that the front-end code required for Windows front end 14 can be reduced by running window manager 100 locally. This is a clear teaching not to make the Examiner's proposed change since the Examiner's proposed change would not achieve this stated goal of Willems to reduce the front-end code required for Windows front end 14 since the Examiner's proposed embodiment would not run both window manager 100 locally. Thus, since the Examiner's proposed embodiment lacks one of the key advantages sought by Willems, Willems teaches a skilled person to avoid the Examiner's

proposed embodiment and implement the embodiment of Figure 9 since the Figure 9 embodiment achieves the key advantage of reducing front-end code.

In Section B.1.d of the Examiner's Answer, the Examiner alleges that providing means on the client computer for locally running at least one further application will reduce the amount of front-end code required for Windows front end 14. There is no support in Willems for this conclusion. The Examiner concedes this on page 29, lines 6-8 of Section B.1.g of the Examiner's Answer. Willems only teaches that running window manager 100 locally will reduce the amount of front-end code required. There is no indication in Willems that running an additional application locally will further reduce the amount of front-end code required in the system of Willems. This is pure speculation on the part of the Examiner and should be disregarded. Moreover, the Examiner agrees that running at least one further application locally will increase network traffic. Thus, since the skilled person knows that running at least one further application locally in the Examiner's proposed configuration will increase network traffic but does not know the impact of this on the amount of front-end code required, the skilled person would be led not to implement this feature in combination with locating window manager 100 on X server 102 as the Examiner suggests since only a detrimental effect is expected, i.e. an increase in network traffic. Note that this detrimental effect is also avoided by implementing the embodiment of Figure 9 of Willems in combination with an additional locally run application, thereby providing a further reason for the skilled person to adopt the configuration of Figure 9 of Willems rather than the Examiner's proposed configuration.

In Section B.1.e of the Examiner's Answer, the Examiner makes essentially the same argument that was made in Section A.1.a of the Examiner's Answer. This argument has been addressed in detail above in relation to Section A.1.A of the Examiner's Answer.

In Section B.1.e of the Examiner's Answer, the Examiner further argues that whether the X server 102 of Willems is enabled to control a display on the client computer of a screen area having contents generated locally on the client computer is moot because, "Willems would obviate [sic] the claims even if they actually required the server to control the display on a screen

area having contents generated locally on the client computer because enabling the window manager to control a client's locally run applications would enable it to control the display on a screen area of a screen area having contents generated locally on the client computer." See page 28, second paragraph, Section B.1.e of the Examiner's Answer. This statement does not make sense since Willems does not disclose that window manager 100 can be used to control locally run applications. Rather, Willems discloses that window manager 100 can be used to control X Windows applications 18, 20 and 22. See col. 14, lines 1-2 of Willems. X Windows applications 18, 20 and 22 are not locally run applications but instead are remotely run applications, as can be seen from Figure 9 and col. 13, lines 66-67 of Willems. Thus, this statement by the Examiner appears to be incorrect.

The arguments made in Section B.1.f of the Examiner's answer have been fully addressed above in respect to similar arguments made in Section B.1.b of the Examiner's Answer.

In Section B.1.g of the Examiner's Answer, the Examiner again discusses enabling the window manager 100 of Willems to control locally run applications. However, as discussed above in relation to Section B.1.e of the Examiner's Answer, Willems does not teach that the window manager 100 can be enabled to control locally run applications, but rather only teaches use of window manager 100 to control remotely run applications.

The Examiner further alleges in Section B.1.g that, "One of ordinary skill in the art would readily recognize that enabling the remote window manager 100 to control locally run applications would clearly enable the system designer to eliminate code at the client side." See page 29, Section B.1.g, last sentence. This statement is pure speculation and is not supported by any evidence, including the disclosure of Willems since Willems discloses enabling window manager 100 to control remote applications but not local applications, as discussed above in relation to Section B.1.e of the Examiner's Answer. Further, the Examiner has not indicated what code could be eliminated on the client side nor has the Examiner indicated why such code could be eliminated by the proposed arrangement of features. Willems actually teaches that front-end code can be eliminated by making all window management local. See col. 14, lines 1-2 of

Willems. There is no teaching in Willems that window manager 100 can or should control locally run applications or that front-end code could be reduced by doing so.

5. *The Rejection of Claim 18 under 35 U.S.C. 103(a) over U.S. Patent no. 5,613,090 (Willems)*

The argument made by the Examiner in Section B.2.a of the Examiner's Answer has been fully addressed above in relation to the similar arguments made by the Examiner in Section B.1.a of the Examiner's Answer.

The argument made by the Examiner in Section B.2.b of the Examiner's Answer has been fully addressed above in relation to the similar arguments made by the Examiner in Section B.1.b of the Examiner's Answer.

6. *The Rejection of Claim 19 under 35 U.S.C. 103(a) over U.S. Patent no. 5,613,090 (Willems)*

The argument made by the Examiner in Section B.3.a of the Examiner's Answer has been fully addressed above in relation to the similar arguments made by the Examiner in Sections B.1.a and B.1.c of the Examiner's Answer.

The arguments made by the Examiner in Sections B.3.b and B.3.c of the Examiner's Answer have all been made before and are fully addressed in the Appeal Brief and Sections B.1.a-B.1.c above.

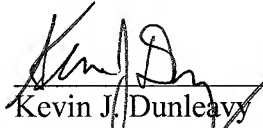
The arguments made by the Examiner in Section B.3.d and B.3.e of the Examiner's Answer have been addressed in detail above in relation to the substantially similar arguments made in Sections B.1.a-B.1.d above.

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Accordingly, for the reasons given in the Appeal Brief and the additional reasons presented above, the Applicant maintains that the Examiner's rejection of claims 1-10 and 18-19 under 35 U.S.C. 103(a) over Willems should be reversed.

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